

ISSUE DATE: May 14, 1996

DOCKET NO. E-999/CI-95-135

ORDER ADOPTING PRINCIPLES AND ACTION STEPS AS GUIDELINES FOR THE
COMPETITION WORKING GROUP

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Joel Jacobs
Tom Burton
Marshall Johnson
Dee Knaak
Don Storm

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of an Investigation into
Structural and Regulatory Issues in the
Electric Utility Industry

ISSUE DATE: May 14, 1996

DOCKET NO. E-999/CI-95-135

ORDER ADOPTING PRINCIPLES AND
ACTION STEPS AS GUIDELINES FOR
THE COMPETITION WORKING GROUP

PROCEDURAL HISTORY

On May 8, 1995, the Minnesota Public Utilities Commission issued its ORDER DETERMINING SCOPE OF INVESTIGATION AND REQUIRING FILINGS in the above-captioned matter. The Order posed a series of questions and invited all interested parties to respond, and to provide the Commission with their thoughts on the appropriate degree and direction for electric industry restructuring in Minnesota.

On or about July 7, 1995, the Commission received comments from 30 parties, including all five investor-owned utilities, the Minnesota Department of Public Service (the Department), and the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), as well as parties representing several large electricity consumers, low income consumers, environmental interests, labor, cooperative electric associations, municipal utilities and other electric utilities.

By September 11, 1995, 20 parties provided the Commission with response comments. In addition, a coalition of municipals, cooperatives, environmental, consumer and labor groups provided the Commission with a joint statement of public interest principles on electric industry restructuring.

On December 19, 1995, following its consideration of the parties' comments, the Commission issued its ORDER SOLICITING COMMENTS AND INITIATING FORMATION OF A WORKING GROUP TO ADDRESS OTHER NEAR-TERM ACTIONS in this matter. The Order requested parties' comments on fifteen draft principles and eight proposed action steps on industry restructuring. In addition, the Commission requested that staff prepare a proposal for a competition work group to perform more in-depth analysis and advise the commission further on restructuring issues.

On January 25, 1996, the Commission approved the staff proposal and the competition work group was formed consistent with that proposal.

On January 19, 1996, the Commission received comments on the draft principles and proposed action steps.

On April 11, 1996, the Commission met to consider this matter.

FINDINGS AND CONCLUSIONS

In this Order, the Commission gives further consideration to the draft principles and action steps to be used as guidelines for the work of the Competition Work Group. The Commission emphasizes that these principles are to be applied flexibly to assist and accommodate the discussion and findings of the group as the restructuring dialogue unfolds. These guidelines are not to be viewed as foreclosing creative discussion or constraining dialogue, or mandating certain results.

Based on the comments received by parties, and further analysis and discussion by the Commission, the Commission will revise its restructuring principles and action steps as follows. In the text of this Order, changes from what was presented for comment in the December 19, 1995 Order will be indicated by the usual editing marks, ~~strikeout~~ for deletion and underline for addition.

Changes to Draft Principles

1. *A deliberate, step-wise approach to restructuring.* It is possible that increased competition in the electric industry, especially in the generation sector, will result in lower costs, higher efficiency and more innovative service offerings for electricity consumers. However, in a ~~rapid and~~ ill-defined move to a retail competitive market for electricity, the benefits of competition could be selectively conferred on a small number of participants, to the detriment of other participants and the public interest. Therefore, the state of Minnesota should only proceed to implement retail competition for electric generation when essential elements to ensure the fairness of a competitive market and to protect the public interest are developed and in place. **These elements must begin with the achievement of an open transmission system and the establishment of a robust wholesale competitive market for electric energy and capacity.**
2. *The benefits of competition should be ~~available to~~ realized by all customer classes.* A restructured industry should not be organized in such a way that a select group of customers benefits by shifting a portion of their legitimate costs of service onto other customers. Services which can be provided most efficiently through a competitive market should be subject to competition; services which can be provided most efficiently by a monopoly provider should continue to be regulated. Restructuring proposals should be evaluate according to the likelihood that they will provide greater benefit, lower cost, and lower risk to electric consumers.

3. *Competitively neutral laws and regulation.* The industry should be governed by competitively neutral laws and regulations for all providers, regardless of structure or size, and all consumers, regardless of class or economic status, of electric energy and related services within the state. Programs and services which are considered essential components of electric service in this state must apply to all providers and/or consumers, with no opportunity for bypass.
4. *Equitable and efficient unbundling of ~~generation, transmission and distribution~~ electric rates and services.* Prices for each component must be set to ensure no cross-subsidy between competitive and monopoly services. In addition to unbundling rates, the generation operation should be at least functionally unbundled from other utility operations. Unbundling should serve the purpose of determining whether alternative providers contribute to greater economic efficiency.
5. *Obligation to provide distribution service.* The distribution system is and should remain a regulated monopoly service. Distributors should maintain exclusive service areas and have the obligation to provide distribution service to all customers in the distribution service area. This service would be subject to reasonable service extension policies, including customer contributions for certain extensions.
6. *Universal energy service.* Universal service at reasonable rates should be a primary goal of the state. ~~All retail sellers of electricity should share in the responsibility to provide universal energy service at reasonable rates. There are a variety of ways to achieve this goal, including the establishment of a universal service charge and the allocation of customers who are unable to obtain energy service in the competitive market to each provider of energy service, according to some measure of market share.~~ Universal energy service should be supported through a non-bypassable mechanism.
7. *Attention to the needs of residential consumers.* Electric service is a basic necessity. Any transition to a retail competitive market must address the needs of residential and small business consumers, and in particular, low-income consumers. There must exist fair and non-discriminatory mechanisms for all consumers to participate in a competitive market, without undue complexity in options or procedures. In situations where a competitive market cannot operate, residential consumers must have access to reliable, low-cost service.
8. *Public participation.* There should be an opportunity for extensive public input into the ultimate structure of the industry. In addition, the public must be fully educated as to the impact of industry restructuring on electricity service.
9. *Performance Standards.* The electric system must continue to be operated in a manner which is reliable and which assures the protection of public health and safety. There must exist quantifiable performance standards for safety, and reliability, and service quality in order to set requirements for future industry safety and reliability and to

measure any impacts of competition on safety, ~~and~~ reliability, and service quality

10. *Fair and immediate treatment of transition costs.* The recovery of net, unmitigatable transition costs (“stranded costs” and other costs related to a move to a new market structure) should be shared by all stakeholders, including investors and customers. Proposals to recover stranded investment must include consideration of deferred taxes and other ratepayer contributions currently on the books of the utility
11. *Environmental Improvement.* Any ~~transition to a retail competitive market~~ restructuring of the electric industry should include a plan to improve the environmental quality of the state. This plan should address both the improvement or retirement of ~~older, dirtier fossil-fuel generation~~ generating plants with environmental liabilities, and the provision of clean new resources to serve the citizens of the state. Generation service providers should continue to be held accountable for the environmental consequences of their actions.
12. *State participation in transmission planning.* The state’s interest and participation in transmission planning issues, particularly as they impact the environment as well as cost and reliability of service to the state’s electric consumers, must be maintained.
13. *Diverse portfolio of energy resources.* It is in the long-term interests of the electricity consumers in the state to ensure that their needs are being met through a diversified portfolio of energy resources, so as to minimize the risk of heavy dependence on a single fuel or technology. To that end, the state ~~must~~ should support and promote participation of cost-effective demand-side management, renewable energy and other diverse resources where market barriers preclude their effective participation. In addition, support for the continued research and development of electric generation and delivery technologies must be assured.
14. *A competitive state economy.* A restructured industry should promote prosperity of the state’s economy, including the fostering of cost-effective in-state energy resources.
15. *~~Streamlined~~ Realigned regulation.* In a fully restructured industry, regulatory and administrative processes should be ~~streamlined~~ realigned to meet the regulatory needs of the new industry structure, while maintaining the appropriate level of oversight to ensure effective protection of the public interest. However, it should be recognized that the transition period will require sufficient regulatory resources to ensure the development of a fair market.
16. *Recognize the interests of local government.* As any electric industry restructuring proceeds, the interests of cities which are served by franchised electric utilities should be recognized.

Changes to Action Steps

1. *The Commission should continue to participate in and monitor the FERC rulemaking and other actions relating to open access transmission, and the MAPP efforts to form a regional transmission group.* The FERC actions are essential to the creation of a robust wholesale generation market. The decisions made by the FERC in its Open Access and Stranded Cost NOPRs may also alter the lines of authority between the FERC and the state on some matters impacting restructuring. In addition, the formation of a MAPP RTG will present both issues and opportunities for the state as it addresses restructuring issues. The Commission should participate in these forums to the maximum extent possible, both to maintain an awareness of the direction of these proceedings and to impact their outcome.
2. *The Commission should establish a Wholesale Competition Working Group to examine methods to bring robust wholesale competition to Minnesota.* The working group should include representatives of all stakeholder interests and should discuss the relative merits of various alternatives, for example, the use of a power pool, a mandatory bidding process, or disaggregation of generation or transmission, as a means of developing the wholesale generation market in Minnesota.
3. *The Commission should examine the potential for increasing the flexibility of rate-regulated utilities to negotiate rates and terms of service for electric customers.* Utilities subject to Commission regulation are currently unable to respond quickly to customer needs for innovative service agreements. The Commission should explore its authority to implement mechanisms which would provide for increased flexibility while maintaining assurances that the overall public interest is not compromised.
4. ~~*The Commission should commence a rulemaking to establish service quality, reliability and safety standards.*~~ The Commission already has authority to do this under Minn. Stat. § 216B.09, subdivisions 1 and 2 (1994). ~~In order for the standards to be useful in assuring service quality in a changing industry, this rulemaking should include a component which examines the current status of service quality and safety and establishes benchmarks for future performance.~~ *The Commission should begin an examination of appropriate standards for safety, reliability and service quality. This work would begin in the Competition Work Group, which could make recommendations to the Commission on appropriate standards and possible methods of implementing those standards.*
5. ~~*The Commission should investigate the appropriate methods of unbundling rates for generation, transmission and distribution electric rates and services.*~~ ~~This could be done under the auspices of the wholesale competition study group, through other work with the parties, or through standard Commission investigation procedures.~~ *As an initial step, the Commission will ask the work group to explore possible methods of unbundling, their benefits and costs, and their practicality.*
6. *The Commission should develop a public information package on restructuring and a program for disseminating information to the public.* The Commission should work

with interested parties to ensure a balanced, objective presentation of the issue to the public.

7. *The Commission should examine Chapter 216B and other Minnesota Statutes to determine where current law establishes unequal requirements for various utilities electric power and electric service providers which would undermine the development of a fair competitive market.*
8. *After, or as a part of, the examination of wholesale competition issues, the Commission could examine ~~the establishment of a retail wheeling pilot project, both to stimulate the generation market and to gain experience with retail access.~~ and develop methods the state could use to gain insight into the issues and challenges associated with retail competition. ~~Ideally, a pilot project would be centered around the installation of small, distributed generating units; preferably utilizing renewable fuels~~ This step would be undertaken by the competition work group after it makes its report on wholesale competition.*

ORDER

1. The Commission hereby adopts 16 principles and 8 action steps as guidance for the Competition Working Group in this matter. See attached copy.
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

This document can be made available in alternative formats (i.e., large print or audio tape) by calling (612) 297-1200 (TDD/TTY) or 1 (800) 657-3782.

Docket No. E-999/CI-95-135
*In the Matter of an Investigation
into Structural and Regulatory Issues
In the Electric Utility Industry*
ORDER ADOPTING PRINCIPLES
AND ACTION STEPS
AS GUIDELINES FOR THE
COMPETITION WORKING GROUP
May 14, 1996

RESTRUCTURING PRINCIPLES

1. *A deliberate, step-wise approach to restructuring.* It is possible that increased competition in the electric industry, especially in the generation sector, will result in lower costs, higher efficiency and more innovative service offerings for electricity consumers. However, in an ill-defined move to a retail competitive market for electricity, the benefits of competition could be selectively conferred on a small number of participants, to the detriment of other participants and the public interest. Therefore, the state of Minnesota should only proceed to implement retail competition for electric generation when essential elements to ensure the fairness of a competitive market and to protect the public interest are developed and in place. **These elements must begin with the achievement of an open transmission system and the establishment of a robust wholesale competitive market for electric energy and capacity.**
2. *The benefits of competition should be realized by all customer classes.* A restructured industry should not be organized in such a way that a select group of customers benefits by shifting a portion of their legitimate costs of service onto other customers. Services which can be provided most efficiently through a competitive market should be subject to competition; services which can be provided most efficiently by a monopoly provider should continue to be regulated. Restructuring proposals should be evaluate according to the likelihood that they will provide greater benefit, lower cost, and lower risk to electric consumers.
3. *Competitively neutral laws and regulation.* The industry should be governed by competitively neutral laws and regulations for all providers, regardless of structure or size, and all consumers, regardless of class or economic status, of electric energy and related services within the state. Programs and services which are considered essential components of electric service in this state must apply to all providers and/or consumers, with no opportunity for bypass.
4. *Equitable and efficient unbundling of electric rates and services.* Prices for each component must be set to ensure no cross-subsidy between competitive and monopoly

services. In addition to unbundling rates, the generation operation should be at least functionally unbundled from other utility operations. Unbundling should serve the purpose of determining whether alternative providers contribute to greater economic efficiency.

5. *Obligation to provide distribution service.* The distribution system is and should remain a regulated monopoly service. Distributors should maintain exclusive service areas and have the obligation to provide distribution service to all customers in the distribution service area. This service would be subject to reasonable service extension policies, including customer contributions for certain extensions.
6. *Universal energy service.* Universal service at reasonable rates should be a primary goal of the state. Universal energy service should be supported through a non-bypassable mechanism.
7. *Attention to the needs of residential consumers.* Electric service is a basic necessity. Any transition to a retail competitive market must address the needs of residential and small business consumers, and in particular, low-income consumers. There must exist fair and non-discriminatory mechanisms for all consumers to participate in a competitive market, without undue complexity in options or procedures. In situations where a competitive market cannot operate, residential consumers must have access to reliable, low-cost service.
8. *Public participation.* There should be an opportunity for extensive public input into the ultimate structure of the industry. In addition, the public must be fully educated as to the impact of industry restructuring on electricity service.
9. *Performance Standards.* The electric system must continue to be operated in a manner which is reliable and which assures the protection of public health and safety. There must exist quantifiable performance standards for safety, reliability, and service quality in order to set requirements for future industry safety and reliability and to measure any impacts of competition on safety, reliability, and service quality
10. *Fair and immediate treatment of transition costs.* The recovery of net, unmitigatable transition costs ("stranded costs" and other costs related to a move to a new market structure) should be shared by all stakeholders, including investors and customers. Proposals to recover stranded investment must include consideration of deferred taxes and other ratepayer contributions currently on the books of the utility
11. *Environmental Improvement.* Any restructuring of the electric industry should include a plan to improve the environmental quality of the state. This plan should address both the improvement or retirement of generating plants with environmental liabilities, and the provision of clean new resources to serve the citizens of the state. Generation service providers should continue to be held accountable for the environmental consequences of their actions.

12. *State participation in transmission planning.* The state's interest and participation in transmission planning issues, particularly as they impact the environment as well as cost and reliability of service to the state's electric consumers, must be maintained.
13. *Diverse portfolio of energy resources.* It is in the long-term interests of the electricity consumers in the state to ensure that their needs are being met through a diversified portfolio of energy resources, so as to minimize the risk of heavy dependence on a single fuel or technology. To that end, the state should support and promote participation of cost-effective demand-side management, renewable energy and other diverse resources where market barriers preclude their effective participation. In addition, support for the continued research and development of electric generation and delivery technologies must be assured.
14. *A competitive state economy.* A restructured industry should promote prosperity of the state's economy, including the fostering of cost-effective in-state energy resources.
15. *Realigned regulation.* In a fully restructured industry, regulatory and administrative processes should be realigned to meet the regulatory needs of the new industry structure, while maintaining the appropriate level of oversight to ensure effective protection of the public interest. However, it should be recognized that the transition period will require sufficient regulatory resources to ensure the development of a fair market.
16. *Recognize the interests of local government.* As any electric industry restructuring proceeds, the interests of cities which are served by franchised electric utilities should be recognized.

ACTION STEPS

1. *The Commission should continue to participate in and monitor the FERC rulemaking and other actions relating to open access transmission, and the MAPP efforts to form a regional transmission group.* The FERC actions are essential to the creation of a robust wholesale generation market. The decisions made by the FERC in its Open Access and Stranded Cost NOPRs may also alter the lines of authority between the FERC and the state on some matters impacting restructuring. In addition, the formation of a MAPP RTG will present both issues and opportunities for the state as it addresses restructuring issues. The Commission should participate in these forums to the maximum extent possible, both to maintain an awareness of the direction of these proceedings and to impact their outcome.
2. *The Commission should establish a Wholesale Competition Working Group to examine methods to bring robust wholesale competition to Minnesota.* The working group should include representatives of all stakeholder interests and should discuss the relative merits of various alternatives, for example, the use of a power pool, a mandatory bidding process, or disaggregation of generation or transmission, as a means of developing the

wholesale generation market in Minnesota.

3. *The Commission should examine the potential for increasing the flexibility of rate-regulated utilities to negotiate rates and terms of service for electric customers.* Utilities subject to Commission regulation are currently unable to respond quickly to customer needs for innovative service agreements. The Commission should explore its authority to implement mechanisms which would provide for increased flexibility while maintaining assurances that the overall public interest is not compromised.
4. *The Commission should begin an examination of appropriate standards for safety, reliability and service quality.* This work would begin in the Competition Work Group, which could make recommendations to the Commission on appropriate standards and possible methods of implementing those standards.
5. *The Commission should investigate the appropriate methods of unbundling electric rates and services.* As an initial step, the Commission will ask the work group to explore possible methods of unbundling, their benefits and costs, and their practicality. The Commission will also investigate which services contained within bundled rates could be provided competitively.
6. *The Commission should develop a public information package on restructuring and a program for disseminating information to the public.* The Commission should work with interested parties to ensure a balanced, objective presentation of the issue to the public.
7. *The Commission should examine Chapter 216B and other Minnesota Statutes to determine where current law establishes unequal requirements for various electric power and electric service providers which would undermine the development of a fair competitive market.*
8. *After, or as a part of, the examination of wholesale competition issues, the Commission could examine and develop methods the state could use to gain insight into the issues and challenges associated with retail competition.* This step would be undertaken by the competition work group after it makes its report on wholesale competition.